

1 **Peter Ticktin, Esq.**
2 The Ticktin Law Group
3 270 SW Natura Avenue
4 Deerfield Beach, Florida
5 Email: Serv512@legalbrains.com
6 Tel: 954-570-6757

7
8 Attorneys for Defendant,
9 Patrick Byrne

10
11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13
14 ROBERT HUNTER BIDEN, an
15 individual,

16 Plaintiff,

17 vs.

18 PATRICK M. BYRNE, an individual,

19 Defendant.

20 } **Case No.: 2:23-cv-09430-SVW-PD**
21 } **Judge: Honorable Stephen V. Wilson**
22 } **Courtroom: "10A"**

23 } **DEFENDANT'S MOTIONS FOR**
24 } **RECONSIDERATION OF**
25 } **DEPRIVING DEFENDANT OF THE**
26 } **RIGHT OF COUNSEL OR**
27 } **ALTERNATIVE CONTINUANCE**

28 } **Date: July 30, 2025**
29 } **Time: 9:30 p.m.**
30 } **Courtroom: "10A"**

1 The Defendant, Patrick M. Byrne, by and through his undersigned counsel,

2 **Background**

3 The Court has granted several trial adjournments, and Plaintiff received
4 several benefits to the adjournments. This includes a full and unconditional pardon
5 that applies to the underlying facts in the instant case to allow him to testify without
6 asserting the 5th Amendment privilege, as well as allowing Plaintiff ample time to
7 change counsel.

8 This entire case since filing in 2023 for the purpose of defending Mr. Byrne's
9 defense been planned and tracked by attorney Stephanie Lambert. Lambert has an
10 extensive relationship as an attorney over many years with Patrick Byrne. She is not
11 only the only one prepared to defend Byrne at this trial but brings extensive
12 knowledge of the underlying matters at issue in this case needed to properly defend
13 Patrick Byrne.

14 Patrick Byrne intends to seek review of the U.S. Court of Appeals for the
15 Ninth Circuit and request a stay of the trial if he is unable to have his attorney of
16 choice, Ms. Lambert. There is a breakdown in the attorney-client relationship with
17 Mr. Murphy and Mr. Byrne has full confidence in Ms. Lambert. [Exhibit 1].

18 The Court expressed concern of future possibilities concerning Stephanie
19 Lambert's representation of Patrick Byrne. But, however, well-meaning those
20 concerns, the precedents do not allow speculative considerations.

1 On the contrary, without wishing to engage in criticism, existing local counsel
2 has from the Defendant's point of view in fact dropped the ball on numerous
3 important issues leading up to this point in the case. The Defendant does not view
4 those problems as possibilities, but actual events that have harmed him in the current
5 posture of the case. [Exhibit 1].
6

7 **Legal Standard**
8

9 Federal courts have the authority to regulate the admission of attorneys to
10 practice before them, including *pro hac vice* admissions. However, an applicant who
11 is a member in good standing of a state bar may not be denied *pro hac vice* admission
12 except on a showing of unethical conduct of such a nature as to justify disbarment
13 of a lawyer admitted generally to the bar of the court. *United States v. United States*
14
15 *Dist. Court for the Dist. of Nev. (In re United States)*, 791 F.3d 945, 956 (9th Cir.
16 2015) (quoting *Sanders v. Russell*, 401 F.2d 241, 247-48 (5th Cir. 1968)). Courts
17 must articulate specific reasons for denying *pro hac vice* admission, and mechanistic
18 or arbitrary denials are improper. *Bundy v. United States Dist. Court (In re Bundy)*,
19 840 F.3d 1034, 1042 (9th Cir. 2016).
20
21

22 Stephanie Lambert is an attorney in good standing including in Michigan. The
23 U.S. Department of Justice even under the previous Biden Administration does not
24 object to her admission in federal courts to represent her clients in criminal defense
25 cases. The objections are exclusively utilized to prevent her from being a zealous
26
27
28

1 advocate on election matters. It should be noted that Hunter Biden served on the
2 Truman National Security Project and intends to introduce at trial exhibits related to
3 the 2020 election which Ms. Lambert is the premier specialized attorney in the
4 County in this niche area of law.

5 This Court was deprived of a response from Ms. Lambert yesterday that would
6 have included that the Court Order from Judge Nichols is in the appellate stage by
7 Patrick Byrne. Ms. Lambert maintains that she was required to turn the evidence
8 over to law enforcement to comply with Michigan law, and doing so was not a basis
9 for violating the Court Order.

10 Afterall, a Sheriff with the lawful authority to investigate illegal conduct was
11 alerted to illegal conduct and provided with evidence. The alternative would be to
12 withhold evidence that might establish illegal conduct from authorities authorized
13 and charged with investigating it, and had Ms. Lambert done so she would have
14 violated a Michigan statute requiring her to provide the evidence to law enforcement.

15 Ms. Lambert is an attorney in good standing, meets the standards to be
16 admitted before this Court, and the Order subject to her disqualification in a separate
17 case is being appealed.

18 **Argument**

19 **Ms. Lambert's Disciplinary History Does Not Justify Denial of *Pro Hac Vice*
20 Admission**

21 The Plaintiff and the Court argue that Ms. Lambert's disciplinary history,

1 including past sanctions and ongoing ethics probes, warrants denial of his *pro hac*
2 *vice* application. However, federal courts have consistently held that an applicant
3 may not be denied *pro hac vice* admission unless the alleged misconduct rises to the
4 level of unethical conduct that would justify disbarment. *See Schlumberger Techs.*
5 *v. Wiley*, 113 F.3d 1553, 1561 (11th Cir. 1997).

6

7 I. ARGUMENT

8

9

10 A. Petitioner has Right to Counsel, Even *Pro Hac Vice*

11

12 A defendant's Sixth Amendment rights encompass the right to be
13 represented by the attorney selected by the defendant. *Wheat v. United States*, 486
14 U.S. 153, 159, 100 L. Ed. 2d 140, 108 S. Ct. 1692 (1988); *Powell v. Alabama*, 287
15 U.S. 45, 53, 77 L. Ed. 158, 53 S. Ct. 55 (1932). "It is hardly necessary to say that,
16 the right to counsel being conceded, a defendant should be afforded a fair
17 opportunity to secure counsel of his own choice." *Powell v. Alabama*, 287 U.S. at
18 53.

19

20 It cannot be stated too strongly that the choice of an attorney is a vitally
21 important part of the legal system, in which a litigant hopes to find a legal
22 representative who shares the litigant's philosophy of the case, grasps what is
23 important to the litigant's position, and is able to proclaim and declare in legally
24 appropriate and understandable terms the litigant's positions.

25

26 The question is at hand is not whether the Court or opposing party approve

1 of a Defendant's attorney but whether the Defendant feels the attorney can
2 represent him well. Legal representation also includes, sometimes unfortunately,
3 tough "litigation choices" of what to emphasize at trial, when an additional point
4 might lose the jury's attention, and the like. A litigant may be bound by the split-
5 second decisions of his counsel whether to ask one more question, clarify a point,
6 add an additional issue to the testimony, etc.

7
8 Therefore, it is not possible to be satisfied with the legal system deciding if
9 an attorney is adequate from the Court's perspective. It must be an attorney who
10 reflects the litigant's perspective. Clients are almost always bound by the
11 statements and representations of their attorneys in various contexts.

12
13 In this case, the Defendant Patrick Byrne has chosen Ms. Lambert and
14 authorized her to now hire California lawyers to represent him because she is the
15 expert on his strategy and election cases that are relevant to this case. The
16 Defendant's choice is no less than a constitutional right which also implicates the
17 validity of the litigation pursuant to the Sixth Amendment and due process
18 provisions of the U.S. Constitution. The denial to a litigation defendant of his
19 chosen defense attorney is no mere trifle but is a constitutional right, as the
20 Supreme Court has held.

21
22 As the Ninth Circuit Court of Appeals has noted in the course of its analyses
23 of related issues:

1 Finally, that Cohan isn't a member of the Oregon bar was
2 not an adequate reason to deny substitution. A
3 defendant's right to the counsel of his choice includes the
4 right to have an out-of-state lawyer admitted pro hac
vice. *Collins*, 920 F.2d at 626.

5 *United States v. Lillie*, 989 F.2d 1054, 1056 (9th Cir. 1993) (citation omitted),
6 overruled on other grounds by *United States v. Garrett*, 179 F.3d 1143 (9th
7 Cir.1999). *Garrett's* citation is to *United States v. Collins*, 920 F.2d 619, 626 (10th
8 Cir.1990), cert. denied, 500 U.S. 920, 111 S.Ct. 2022, 114 L.Ed.2d 108 (1991), in
9 which the Ninth Circuit Court of Appeals further confirmed:
10

12 Before reaching the merits of defendant's sixth
13 amendment claim, we address the effect of Dickstein's
14 pro hac vice admission. Although the admission of
15 attorneys pro hac vice is committed to the discretion of
16 the district courts, denial of admission pro hac vice in
17 criminal cases **implicates the constitutional right to**
18 **counsel of choice**. *Panzardi-Alvarez v. United States*,
19 879 F.2d 975, 980 (1st Cir.1989), cert. denied, --- U.S. ---
-, 110 S.Ct. 1140, 107 L.Ed.2d 1045 (1990); *Fuller*,
868 F.2d at 607; *Panzardi Alvarez*, 816 F.2d at 816.

20 *Id.* at 626 (emphasis added).

21 This Court in *U.S. v. Lillie* further explained:

22 A Defendant is entitled to the retained counsel of his
23 choice (though not to the appointed counsel of his
24 choice). U.S. Const. amend. VI; *Wheat v. United*
25 *States*, 486 U.S. 153, 159, 108 S.Ct. 1692 1697, 100
26 L.Ed.2d 140 (1988). This isn't an absolute right; it may
27 be abridged to serve some compelling purpose. **But the**
28 **defendant can't be denied his choice of retained counsel**
just because the request comes late, or the court thinks
current counsel is doing an adequate job. See, e.g.,

United States v. Torres-Rodriguez, 930 F.2d 1375, 1380 n. 2 (9th Cir.1991); *United States v. Kelm*, 827 F.2d 1319, 1322 (9th Cir.1987); *United States v. Collins*, 920 F.2d 619, 626 (10th Cir.1990), cert. denied, --- U.S. ----, 111 S.Ct. 2022, 114 L.Ed.2d 108 (1991).

Id. at 1055-1056 (*emphasis added*). That is, the District Court cannot deny a defendant's right to counsel without a compelling reason.

Or, put another way, the well-established rule applies that where a Court has discretion it nevertheless must not abuse that discretion outside of reasonable bounds. The discretion must be reasonable, primarily meaning based in reason, not arbitrary or capricious.

“[A] decision denying a pro hac vice admission necessarily implicates constitutional concerns.” *Panzardi-Alvarez v. United States*, 879 F.2d 975, 980 (1st Cir.1989). The right to retain particular counsel of his own choosing stems from a defendant's right to decide what kind of case he wishes to present in his defense. *U.S. v. Nichols*, 841 F.2d 1485, 1502 (10th Cir.1988).

The Defendant's right to defend himself under his constitutional right of due process and right to an attorney unavoidably includes how he chooses to present a legal defense, on what grounds, and emphasizing the concepts, issues, facts, and approach he deems best so as to preserve his liberty interest against a possible criminal conviction. Therefore, the choice of a defendant's attorney(s) is a constitutionally-protected right, because the choice of the attorney(s) can have a

1 significant effect upon how the Defendant's defense is organized and presented.

2 A person's right to retain counsel of his choice therefore represents "'a right
3 of constitutional dimension'" *U.S. v. Cunningham*, 672 F.2d 1064, 1070 (2d
4 Cir.1982) (citing *U.S. v. Wisniewski*, 478 F.2d 274, 285 (2d Cir.1973)), the denial
5 of which may rise to the level of a constitutional violation. *Birt v. Montgomery*,
6 725 F.2d 587, 592 (11th Cir.) (*en banc*), cert. denied, 469 U.S. 874, 105 S.Ct. 232,
7 83 L.Ed.2d 161 (1984); *Wilson v. Mintzes*, 761 F.2d 275, 278-79 (6th Cir. 1985).

8 In *United States v. Gonzalez-Lopez*, 399 F.3d 924, 932 (8th Cir. Mo. 2005),
9 the Court vacated the conviction against a criminal defendant because the trial
10 court had improperly denied the *pro hac vice* application of defendants' counsel of
11 choice by relying on improper evidence.

12 In *United States v. Walters*, 309 F.3d 589, 592 (9th Cir. Cal. 2002), even
13 though a *pro hac vice* attorney there may have properly been denied due to the fact
14 that he resided and had an office in California,¹ yet in a criminal context, the denial
15 was improper because "the district court applied the local rule mechanistically,
16 without discussion of whether the interest of the fair, efficient, and orderly
17 administration of justice required denial of the application." *Id.*

18 Federal courts have held that *pro hac vice* admission may only be denied

25
26
27
28 ¹ I.e., the attorney there was not actually out-of-state and should have pursued
admission generally to the California bar.

1 based on specific and substantiated concerns about the applicant's ability to comply
2 with the court's rules and practices. *United States v. United States Dist. Court for*
3 *the Dist. of Nev. (In re United States)*, 791 F.3d 945, 957 (9th Cir. 2015). *See also*
4
5 *United States v. Ries*, 100 F.3d 1469, 1472 (9th Cir. 1996).

6 Here, the Plaintiff has not provided any evidence that Ms. Lambert's conduct
7 in this case would disrupt the orderly administration of justice, rather the Plaintiff
8 and the Court are speculating.

9
10 **The Timing of the Pro Hac Vice Application Does Not Warrant Denial**
11

12 Ms. Lambert's *pro hac vice* application is not untimely. The Local Rules of
13 the Central District of California place no such restriction on the timing of a *pro hac*
14 *vice* application. Moreover, the timing of a *pro hac vice*, application is within the
15 discretion of the court, and untimeliness alone is not a sufficient basis for denial
16
17 **unless it results in prejudice to the opposing party or disrupts the proceedings.**

18
19 The Plaintiff has not demonstrated any prejudice or disruption caused by the
20 timing of Ms. Lambert's application. The Defendant, Patrick M. Byrne, has not
21 requested a continuance to the trial date set for July 29, 2025. There is no unfair
22 prejudice or delay caused by Ms. Lambert's representation of Mr. Byrne in the case
23 *sub judice*. It is Ms. Lambert with the specialized expertise related to this case,
24 strategy, and election knowledge that the Court was not apprised of when it made its
25 ruling to deny her pro hac vice. In addition to this new evidence, the Court was
26
27
28

1 unaware of Mr. Byrne's reliance that he would have video dispositions, exhibits, and
2 witnesses to present in his defense at trial, and thankfully it was discovered the
3 videos were not in the possession of Mr. Murphy for use at trial.
4

5 **Conclusion**

6 The denial of Lambert's admission would prevent the Defendant, Patrick M.
7 Byrne, from being represented by counsel of his choice. Ms. Lambert meets the
8 legal requirements for *pro hac vice* admission, and the Plaintiffs objections are either
9 legally insufficient or unsupported by evidence. For these reasons, the Court should
10 grant the Defendant's Application for Reconsideration and admit Lambert *Pro Hac
11 Vice.*

12
13 By: /s/ Peter Ticktin, Esq.
14

15
16 Peter Ticktin, Esq.
17 The Ticktin Law Group
18 270 SW Natura Avenue
19 Deerfield Beach, Florida 33441
20 Email: Serv512@legalbrains.com,
21 Tel: 954-570-6757

22 Patrick Byrne
23
24
25
26
27
28